



ENDANGERED SPECIES TECHNICAL BULLETIN

Department of the Interior • U.S. Fish and Wildlife Service • Endangered Species Program, Washington, D.C. 20240

PLANT LISTINGS PRODUCE CONFLICTING VIEWS AT HEARINGS

A total of 47 persons testified at four public hearings conducted in July and August by the Fish and Wildlife Service on its proposals to list about 1850 U.S. and foreign plants as Endangered

and to regulate them in interstate and foreign commerce. (In addition, many people submitted written comments.)

Most of the public testimony came from representatives of conservation and commercial organizations and State agencies. The rest was from a few individuals appearing as private citizens.

The witnesses' comments centered on the following main points:

- The need for more time to study the proposed plant listings
- The need for wide circulation of supporting data describing the location of plants and information about the standards for Endangered listings
- Concern over the regulation of interstate shipment and the importing and exporting of Endangered species propagated from seed by growers
- Possible triggering of development of a black market in Endangered plants

Conservationists urged that the proposed rulemakings be put into effect as soon as possible to protect genetic reservoirs of species and their habitats. But other witnesses requested that the proposed listings be delayed to allow time for gauging their potential impact, particularly in Hawaii where more than half the plants occur.

See page 3 for excerpts of testimony given at the four separate hearings.

One of the Service's proposals is based on a 1975 report, prepared by the Smithsonian Institution at the direction of Congress, that reviews the status of plants in the United States. The report (published by the Service as a notice of review in the **Federal Register** on July 1, 1975) designated 3187 plants as candidates for either Endangered or Threatened status. This proposal, on more than 1750 U.S. plants (published in the **Federal Register** on June 16, 1976), resulted from a review of the original candidates and public comments about them.

A second proposal, published in the **Federal Register** on September 26,

1975, recommends Endangered status for 88 foreign plants included in appendix I of the Convention on International Trade in Endangered Species.

The proposed regulations governing commerce in Endangered and Threatened plants were published in the **Federal Register** on June 7, 1976.

Hawaiian Conflicts

Some of the sharpest disagreement on the proposed listing of plants occurred during the public hearing held in Honolulu on July 14. One of the major issues was a proposal to begin a commercial timber industry in Hawaii.

(continued on page 2)

Still Needed Your Contributions

Keith M. Schreiner
Endangered Species Program Manager

We have been gratified by the reception accorded the first two issues of the **ENDANGERED SPECIES TECHNICAL BULLETIN**. The favorable comments pouring into my office indicate that we are producing a valuable information service. I want to thank all of you for your expressions of support.

Nevertheless, I feel we are still short of our goal of being a primary medium of communication for the whole endangered species recovery effort.

What's lacking is more information about what you—the workers in the field—are doing. As I said in our first issue, we need your help to get this difficult job done. And by "help," I also mean information on your programs, problems, and solutions that can be shared with others.

Just from reading the pages of this issue, you can probably appreciate how much we rely upon the expertise of people in the field. For example, the opinions expressed at the public hearings on the proposed Endangered plant rulemakings are essential to the Program's decision-making process. And in surveying the status of the eastern marten, we are totally dependent upon the knowledge of the field biologist.

I know you are busy people. But I also know that the sharing of information is crucial to the success of the Program. I would very much like to hear from you—today if possible.

Authorization for Program Hiked and Extended

Congress has increased the FY 1977 and FY 1978 authorizations for funding of the Endangered Species Program from \$10 million per year to a total of \$25 million for two fiscal years. The authorization for the Commerce Department's National Marine Fisheries Service (N.M.F.S.), which is responsible for marine Endangered species, has been increased from \$2 million to \$5 million for the same two-year period.

(The authorization for spending is not necessarily the same as the actual appropriation. Under the previous budget ceiling, the Program's current appropriation for FY 1977 is \$9.2 million.)

The new authorization has been signed into law by the President along with another amendment to the 1973 Endangered Species Act. This amendment revises sections pertaining to disposal of pre-act stocks of sperm whale oil and scrimshaw (an N.M.F.S. regulation responsibility) and makes other minor corrections in wording of the act.

Plant Listings

(continued from page 1)

Neil Abercrombie, a member of the Hawaii House of Representatives, said that commercial timber and real estate interests were trying to "emasculate" the proposed listing of nearly 900 Hawaiian plants. He submitted a lengthy statement from a Soviet botanist, Anatol Galushko, who said that preservation of Hawaii's flora was of "international importance" because it was unique in the world. Galushko warned against trying to start a commercial timber industry at the expense of destroying natural forest. He noted that "natural forests solely can cope with the task of soil protection and moisture retention."

A recommendation to postpone implementing the Endangered plant list for Hawaii was made by State Forester Thomas Tagawa of the Hawaii Department of Land and Natural Resources. He explained that he had not been able to obtain supporting data on the location of plant taxa on the list, the reasons for listing, and the criteria applied for Endangered status. He stated that "the State of Hawaii should not be required post facto to provide the supporting data to declassify a plant species from the proposed Endangered plant list."

A University of Hawaii scientist, Charles H. Lamoureux, testified that, while the listing of such a large number of plants "may seem politically in-

convenient to some, the list reflects accurately the scientific reality of the situation as it exists in Hawaii today." But a representative of the Hawaiian Sugar Planters' Association, Samuel Caldwell, pointed out that the economic well-being of the State's residents required "a balancing of the human needs against the value of the Endangered plant species."

Cactus and Orchid Growers

The proposed regulations to govern commerce in Endangered and Threatened plants commanded a large share of attention of witnesses at the Los Angeles hearing held on July 22. Cactus growers objected to regulatory provisions that, they said, would impair their ability to make out-of-state shipments. They said the commercial growers should not be restricted, since their stocks are grown from seed. Instead, according to Gary Lyons of the Cactus and Succulent Society of America, restrictions "should be placed on the commercial field collector, the person . . . actually collecting the plants."

Jeff MacDonald, representing the Society of American Florists, submitted a supplemental written statement vigorously supporting the need to protect Endangered plants and their habitats, but objecting to proposed regulations that, he felt, discriminate against commercial growers "when, in fact, this industry fosters the good intent of the proposed regulations." MacDonald also

suggested that, if the industry is allowed to continue without severe restrictions, Endangered species being grown commercially could provide a stock "for future propagation to be used at any time or place designated by the U.S. Fish and Wildlife Service."

Conditional support for this position came from T. Destry Jarvis of the National Parks and Conservation Association during the public hearing held on August 4 in Washington, D.C. Jarvis advocated separate permits for plants available under widespread cultivation. However, he emphasized that his association does not support the delisting of Endangered plants that are plentiful under cultivation. That status, he said, should be retained as long as a plant remains endangered in the wild.

Some witnesses suggested that Endangered species be transplanted to national parks and other protected areas to remove the need for listing them. Listing itself was seen as encouraging illicit or black market trade in Endangered species and creating an unmanageable enforcement situation. For instance according to Gary Lyons, if restrictions were placed on cultivated golden barrel cacti, "there would be no doubt in my mind" that black market operators would begin collecting heavily in the cacti's natural habitat in Mexico.

Comments by all participants in the hearings and those submitted in writing currently are being reviewed by the Endangered Species Program. They will be evaluated, along with other botanical data, as part of the decisionmaking process leading to final rulemakings.

October Hearing Set On Snail Darter Injunction

The Sixth Circuit Court of Appeals has scheduled a hearing in October on an appeal of a lower court decision allowing construction to proceed on the Tellico Dam in spite of threats posed to the critical habitat of the snail darter.

The dam, on the Little Tennessee River, is scheduled for closure in January 1977. Conservationists who brought the suit claim impoundment of water by the dam will create a lake that will destroy the small fish's principal habitat along a 17-mile-long stretch of the river in Loudon County, Tenn. This stretch was listed as Critical Habitat for the snail darter on April 1, 1976.

On July 28, the circuit court issued a stop-work order on the \$100-million Tennessee Valley Authority project on the petition of three people from the University of Tennessee Law School. Five days later, the court amended the injunction, limiting it to the issue of closure of the nearly completed dam. This allowed construction to proceed.

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PROS AND CONS: EXCERPTS OF TESTIMONY AT ENDANGERED PLANT HEARINGS

[Editor's Note: Witnesses at the four public hearings held on the Service's proposals to list and regulate commerce in Endangered plant species expressed a broad range of opinions and concerns as to what should be done—and not done. Although it would appear that some of the individual witnesses either had obtained incorrect information or had misinterpreted the intent of the law or the Program's goals, the Service believes that, in sum, the hearings produced a wealth of valuable testimony that will play a major role in shaping the rulemakings involving Endangered and Threatened plants. Given below are representative excerpts from testimony presented at the four meetings.]

Honolulu Meeting: July 14, 1976

Neil Abercrombie (Hawaii State Representative): "I wish to register my opposition in the strongest possible terms to attempts which are being made to emasculate the Fish and Wildlife Service's proposed regulations concerning Endangered plant species, the majority of which are found in Hawaii. . . . To manipulate the designation of Endangered species according to the needs of a commercial timber industry and real estate developers is a sickening affront to the Hawaiian tradition of preserving the harmony of natural balance and a crime against future generations which would be deprived of the opportunity to study and share our planet with these species. . . ."

Charles H. Lamoureux (University of Hawaii): "While certain officials have been critical of the list for including such a large number of Hawaiian plants, and while the listing of a significant proportion of the Hawaiian flora may seem politically inconvenient to some, the list reflects accurately the scientific reality of the situation as it exists in Hawaii today."

Thomas Tagawa (State Forester, Hawaii Department of Land and Natural Resources): "We recommend that the Endangered plant list for the State of Hawaii be postponed until a joint Federal, State, and private Endangered plant determination and recovery team can ascertain (1) localities and population of each endangered plant, and (2) other supportive data substantiating the Endangered status of the Hawaiian plant taxa. . . . As a responsible forest manager, I can't agree that all native plants must be preserved for the sake of preservation. In other words, we cannot cater to a select few but to the needs of the total public, especially in view of Hawaii's island situation where land is limited. I believe that examples of vital native forest ecosystems should be preserved. However, much of our forest lands . . . must be properly integrated and balanced through a management program geared towards a multiple use concept to attain maximum use of the limited forest resources for the benefit of Hawaii's people."

Los Angeles Meeting: July 22, 1976

Gary Lyons (Cactus and Succulent Society of America): "The best form of preservation we feel for cacti is to be able to grow them from seed and to be able to grow them without restriction and that the restrictions be placed on the commercial field collector, the person who is out in the field actually collecting the plants. The regulations should apply directly to removal of plants from the field."

Mitchel Beauchamp (Pacific Southwest Biological Services): "Another point, that of alleged protection, should be addressed. Occurrence of a rare species in a park or other public recreational facility does not ensure protection. An instance in point can be seen at Torrey Pines State Reserve where a parking area was placed right in the middle of a population of *Dudleya brevifolia*. . . . The rangers were not aware of the occurrence of this rare plant species in their park."

Washington, D.C., Meeting: August 4, 1976

Peter Mount (Appalachian Hardwood Manufacturers): "There must

be an active program to establish colonies of each Endangered species in protected use areas such as national parks, wilderness areas, arboreturns, botanical gardens and private gardens. Once a healthy colonization of an Endangered species occurs in a protected zone, that portion of the critical habitat outside the protected zone should be removed from preserved status."

Carroll Abbott (Green Horizons, Kerrville, Texas): "[Under the proposed regulations] I can sell to anybody in Texas, but I can't sell in Louisville, or Oklahoma or Missouri. . . . That is discrimination—I am speechless, I cannot understand why you would allow anybody in their home state to do what they want to with a plant, but you prohibit its sale or transfer from one state to another. . . . Now there is nothing mysterious about plant propagation, it is just like human sex, it is very fundamental; it is the techniques that get everybody excited. There is absolutely no reason whatsoever that each and every one of the species listed on the Endangered species list cannot be properly accommodated in one of the many, many Federal parks or Federal forests."

T. Destry Jarvis (National Parks and Conservation Association): "We believe that separate regulations regarding plants which are available widespread under cultivation should be given separate consideration. Separate regulations, separate permit provisions, and so forth, should be provided to make it easier for this propagation to continue. . . . We do not, however, support the delisting of Endangered species which are plentiful under cultivation. We believe that the Endangered species status should continue as long as they exist in the wilds for the wild portion of the population of that species. . . . We agree with the **Federal Register** statement that adoption of these proposals is crucial and, in fact, the inadequacy of existing regulatory mechanisms continues to be a factor in the endangerment of the species. The long delays that we have witnessed must not continue. By proposing the listing but delaying its adoption, the Department of the Interior is creating a significant threat to the already endangered species."

Jeff MacDonald (Society of American Florists): "We are awed by the total misinterpretation of the activities and purpose of commercial floriculture. Throughout the proposed regulations, a burden of guilt is placed on the commercial activity of plant propagation, distribution, and sales, when, in fact, this industry fosters the good interest of the proposed regulations. . . . At present, one of the safest locations for Endangered species is in the hands of the commercial growers. . . . Every Endangered plant species propagated and sold through the commercial enterprise system, nationally and internationally, insures a new location and another chance for survival of the species. . . ."

"Our industry . . . is ready, willing, and quite able to make available to the native habitat those species which are disappearing. This industry is also willing to hold stock plants of Endangered species for future propagation to be used at any time or place designated by the U.S. Fish and Wildlife Service. . . ."

Kansas City, Mo., Meeting: July 28, 1976

John E. Wylie (Missouri Department of Conservation): "Growing plants, by law, are considered a part of real estate until they are severed from the soil. This is true of all plants and trees. And as such, they are a part of the property rights of that private land owner, and neither the State nor the Federal government can infringe on those rights under this law, except in the commercial exploitation of the species. Now, I make that statement to allay the fears of any private land owners that neither the State nor the Federal government is going to come in and tell them what to do with their land. We can't do it, neither one of us. From any rational administration of this law in Missouri, as we foresee it right now, there will be very little economic impact."

Gerrit Davidse (Missouri Botanical Garden): "If we have made a correct interpretation of these rules, it would be almost impossible [for scientific institutions] to comply with these kinds of regulations, since we are normally—or quite often—talking about identifying thousands of collections that might be collected on any particular field trip or exhibition. So it is our hope that something may be done about this problem in such a way that bona fide scientific organizations can continue to collect specimens and not be required to identify these completely before they came into the country."

Rulemaking Actions August 1976

Peregrine Falcon

A total of nearly 20,000 acres in four zones of the northern California coastal mountains have been proposed for listing as Critical Habitat for the American peregrine falcon (*Falco peregrinus anatum*) (F.R. 8/30/76). Comments are due by October 29, 1976.

Listed as Endangered since 1970, this falcon has declined to the point where there are only ten known breeding pairs in all of California. If the bird is to survive and recover, it must be able to maintain its nesting sites. The designated Critical Habitat zones in Lake, Napa, and Sonoma counties contain high rocky cliffs with potholes for nesting. In addition, these zones have high concentrations of California quail, mourning doves, tree swallows, and other passerine birds that are prey for the falcon.

Morro Bay Kangaroo Rat

To protect a residual colony of kangaroo rats (*Dipodomys heermanni morroensis*) from residential encroachment, the Service has proposed designating an area along the south side of Morro Bay in San Luis Obispo County, Calif., as Critical Habitat (F.R. 8/30/76). Comments are due by Oct. 29, 1976.

The proposed area covers less than 1.75 square miles. It contains dunes and shrubs and has undergone little human development. Biologists believe that preservation of this habitat represents the best hope for the kangaroo rat's survival.

Eastern Marten

Acting on a petition by the Minnesota chapter of the Sierra Club, the Service has published a notice of review of the

BOX SCORE OF SPECIES LISTINGS

Category	Number of Endangered Species			Number of Threatened Species		
	U.S.	Foreign	Total	U.S.	Foreign	Total
Mammals	35	215	250	1	3	4
Birds	65	144	209	1		1
Reptiles	8	46	54			
Amphibians	4	9	13			
Fishes	30	10	40	4		4
Snails		1	1			
Clams	22	2	24			
Crustaceans						
Insects	6		6	2		2
Plants						
Total	170	427	597	8	3	11
Number of species currently proposed: 73 animals 1850 plants (approx.)						
Number of Critical Habitats proposed: 9; listed: 1						
Number of Recovery Teams appointed: 57						
Number of Recovery Plans approved: 3						
Number of Cooperative Agreements signed with States: 14						

status of the eastern marten (*Martes americana americana*) to determine whether it should be listed as Endangered or Threatened (F.R. 8/25/76). Comments are due by Nov. 24, 1976.

Long valued for its "sable" fur, the marten once ranged over 12 states, from New England to North Dakota. Today, viable populations are found only in Maine and New York; elsewhere, according to the Sierra Club petition, the animal is close to extirpation.

Hawaiian Monk Seal

The Hawaiian monk seal (*Monachus schauinslandi*) has been proposed for Endangered status in a joint notice of rulemaking by the National Marine Fisheries Service and the Fish and Wildlife Service (F.R. 8/11/76). Comments are due to the National Marine Fisheries Service by October 12, 1976.

Recent surveys show the seal, which is protected under the Marine Mammal

Protection Act, is in danger of extinction. The species has declined because people and dogs have intruded on its beach rookeries (which has curtailed breeding) and because sharks have been attacking the weaned seal pups. The seal is known to breed only on the islands of the Hawaiian Island National Wildlife Refuge, which is administered by the Fish and Wildlife Service.

Maryland Signs Agreement

In August, Maryland became the 14th state to enter into a cooperative agreement with the Service for conservation of Endangered species. Other States that have already signed such agreements are Arkansas, California, Colorado, Delaware, Florida, Maine, Michigan, Missouri, New Jersey, New Mexico, New York, South Carolina, and Washington. An agreement with Wisconsin is expected in the near future.



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